

SEP 29 06

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SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD  
ATTORNEYS AT LAW  
1050 SEVENTEENTH STREET, N.W.  
SUITE 301  
WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

OF COUNSEL  
URBAN A. LESTER

September 29, 2006

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, entered into as of September 29, 2006, a secondary document as defined in the Board's Rules for the Recordation of Documents.

The enclosed document relates to the Memorandum of Net Railcar Lease being filed with the Board under Recordation Number \_\_\_\_\_.

The name and address of the party to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC  
885 Second Avenue, 49th Floor  
New York, NY 10017

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent  
FPA 4 Lease/Asset Finance  
Am Tucherpark 1 (FPA)  
80538 Munich, Germany]

Mr. Vernon A. Williams  
September 29, 2006  
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A description of the railroad equipment covered by the enclosed document is:

240 hopper railcars: GALX 06681 – GALX 06800 and RWSX 06271 – RWSX 06390.

A short summary of the document to appear in the index is:

Memorandum of Mortgage.

Also enclosed is a check in the amount of \$34.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,



Robert W. Alvord

RWA/sem  
Enclosures

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**MEMORANDUM OF MORTGAGE**

SURFACE TRANSPORTATION BOARD

Memorandum of Mortgage, made and entered into as of September 29, 2006 between **BABCOCK & BROWN RAIL FUNDING LLC** (the "Debtor") and **BAYERISCHE HYPO-UND VEREINSBANK AG**, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 41 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

**WITNESSETH:**

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

**BABCOCK & BROWN RAIL FUNDING  
LLC**By 

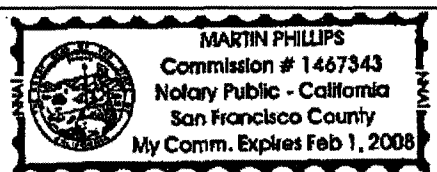
Name: Ross Sullivan

Title: Vice President

STATE OF CALIFORNIA     )  
  ) ss.:  
COUNTY OF SAN FRANCISCO )

On September 28, 2006, before me, MARTIN PHILLIPS, Notary Public,  
personally appeared Ross Sullivan, personally known to me to be the person whose name is  
subscribed to the within instrument and acknowledged to me that he executed the same in his  
authorized capacity, and that by his signature on the instrument the person, or the entity upon  
behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Martin Phillips  
Notary Public

Memorandum of Mortgage

**Exhibit A  
to Memorandum of Mortgage**

**EQUIPMENT**

<u>Lease #</u>	<u># Cars</u>	<u>Year Built</u>	<u>Description</u>	<u>Reporting Marks</u>	<u>Casualty Marks</u>
1	240	2006	RDVI® aluminum open top coal hopper railcars, 286,000 lbs. GRL; AAR Car Type Code K341; built by Trinity North American Freight Car, Inc.	GALX 06681-06800, inclusive; and RWSX 06271-06390, inclusive.	None

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

**Lease # 1**

Master Net Railcar Lease dated as of July 25, 2006, by and between Babcock & Brown Rail Funding LLC and Georgia Power Company, to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Schedule No. 01 to Master Net Railcar Lease dated as of July 25, 2006, by and between Babcock & Brown Rail Funding LLC and Georgia Power Company, to the extent the same relates to the Equipment described under "Lease #1" in Exhibit A hereto.

Memorandum of Net Railcar Lease dated as of July 25, 2006, by and between Babcock & Brown Rail Funding LLC and Georgia Power Company, in respect of the Equipment described under "Lease #1" in Exhibit A hereto.

Assignment & Assumption Agreement, by and between Georgia Power Company and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption 'Lease #1' in Exhibit A hereto.

Georgia Power Company Purchase Order, executed by the Trinity North American Freight Car, Inc. on May 24, 2006 and by Georgia Power Company on May 2, 2006, which purchase order includes various attachments thereto as referenced therein, including (among others) the Trinity North American Freight Car, Inc. "Terms and Conditions of Sale for Coal Cars" which are incorporated into and made a part thereof, to the extent the same relates to the Equipment described in Exhibit A hereto.

Each Warranty Bill of Sale dated as of September 29, 2006, from Trinity North American Freight Car, Inc. to Babcock & Brown Rail Funding LLC and each Certificate of Acceptance executed by Southern Company (the parent company of Georgia Power Company) in relation to the railcars identified in each such Warranty Bill of Sale.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

**CERTIFICATION**

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: \_\_\_\_\_

9/29/06



\_\_\_\_\_  
Robert W. Alvord